

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Leon Terrell Bethea, #2010011024,)	C/A No. 4:23-6238-JD-TER
Plaintiff,)	
)	
vs.)	ORDER
)	
Steven M. Ostin,)	
Defendant.)	

This is an action filed by a *pro se* party proceeding *in forma pauperis*. This case is before the Court due to Plaintiff’s failure to comply with the magistrate judge’s order dated January 18, 2024, ordering Plaintiff to complete a summons and USM-285. (DE 13.)


The Order was mailed to both addresses provided by the Plaintiff, a detention center address and a released address, out of an abundance of caution; the detention center mail has been returned to the Court as Plaintiff had been released near in time to the mailing. It is presumed that Plaintiff received the Order through the other address, which did not return undeliverable, but has neglected to comply with the Order within the time permitted under the Order. The Court has not received a response from Plaintiff, and the time for compliance has passed.

“The court has inherent power to manage its docket in the interests of justice.” Luberda v. Purdue Frederick Corp., No. 4:13-cv-00897, 2013 WL 12157548, at *1 (D.S.C. May 31, 2013). It also has the authority expressly recognized in Rule 41(b) to dismiss actions for failure to prosecute. See Fed. R. Civ. P. 41(b). “The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” Link v. Wabash R. Co., 370 U.S. 626, 630–31 (1962).

Plaintiff has failed to respond to the Order within the time ordered. Plaintiff's lack of response indicates an intent to not prosecute this case and subjects this case to dismissal. See Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a Plaintiff fails to comply with an order of the court); see also Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal with prejudice appropriate where warning given); Chandler Leasing Corp. v. Lopez, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

IT IS SO ORDERED.


Joseph Dawson, III
United States District Judge

Florence, South Carolina
February 23, 2024

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.